From: "Lisa-Nicolle Grist" <ln.grist@nhnhome.org> on 04/03/2004 01:30:46 PM
Subject: Regulation BB - Community Reinvestment Act

Docket No. 04-06
Communications Division
Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
250 E St. SW,
Washington 20219

Docket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St NW
Washington DC 20429

Regulation Comments, Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552

April 3, 2004

Dear Officials of Federal Bank and Thrift Agencies:

I urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. The proposed changes to CRA do not serve a public purpose because they will neither protect the rights of individuals nor measure the performance of corporations. The financial services industry receives tremendous benefits from public policy; in return it must be held accountable for serving the public.

Neighbors Helping Neighbors Inc. is a Sunset Park-based advocacy organization serving tenants, homebuyers, and owners of small properties and small businesses. NHN's mission is to enable low- and moderate-income people to build assets for their families and Brooklyn communities by securing, improving and owning their homes and businesses. Founded by community residents in 1990, NHN focuses on the Latino community and is open to everyone. With a staff of 10 and a budget just over $500,000, NHN serves over 1500 families per year. Through NHN's core programs,

* low-income tenants retain and improve their homes,
* low- and moderate-income people succeed in purchasing affordable first homes,
* homeowners repair their homes and resolve mortgage delinquencies,
* local shopping streets become good places to conduct business, work, shop and live, and
* community members enjoin policy makers to preserve and create affordable housing.

NHN's work gives me special perspective and reasons for concern about the proposed changes to the Community Reinvestment Act. Deregulation and modernization in the financial services industry have grossly increased the information and power advantages that corporations wield over consumers, taxpayers and citizens. People in our community have particularly felt the impact of predatory and abusive lending practices. The home is the base from which families climb the socio-economic ladder; it is a key to health, educational achievement, business opportunities and intergenerational wealth. At NHN we work both to prevent and to remedy the long-term damage caused by unfair financial practices that slow, stop or reverse the efforts of disadvantaged communities to build assets and advance the quality of their lives.

NHN is a member of city, state, and national nonprofit coalitions that help inform us about the proposed changes to the Community Reinvestment Act. I have carefully and critically examined the information they provided, and agree with much of it. The following excerpts and paraphrases are the significant points that shaped my opinion of the proposed changes to the Community Reinvestment Act; I hope these points will also influence your decision.

* Predatory Lending Standard. The proposed standard states that loans based on the foreclosure value of the collateral, instead of the ability of the borrower to repay, can result in downgrades in CRA ratings. The asset-based standard falls short because it will not cover many instances of predatory lending in which equity is stripped but the homeowner is able to avoid delinquency or foreclosure. This narrow definition excludes the most common practices of high fees, prepayment penalties and loan flipping. In addition, an anti-predatory standard must apply to all loans made by the bank and all of its affiliates, not just real-estate secured loans issued by the bank in its "assessment area" as proposed by the agencies.

* The financial services industry strenuously reminds us about the difference between sub-prime and predatory lending. However, the likelihood of abuse at every level is great, and the ability of consumers to protect their interests is small. Therefore any change in public policy should significantly increase the industry's accountability, and the proposed changes are clearly inadequate. To emphasize this point I paraphrase from a recent Harvard report:

All too often lower-income and minority communities are distinctively different mix of products from the mainstream. As a result of this dual market structure, many lower-income consumers take on mortgage debt that they cannot afford and may not even need. In addition, some borrowers are "pushed" into accepting a 'higher-cost" subprime mortgage, even though they have a credit history, income, or other factors that would enable them to qualify them for a "lower- cost" prime loan. These disturbing trends raise questions about the ability of current consumer protection legislation to actually protect consumers from abusive lending. Potential borrowers are often not up to the challenge of protecting their own interests in the mortgage marketplace. The result is a misallocation and mispricing of mortgage capital. And in extreme cases, the current mortgage structure fosters elevated levels of mortgage foreclosures that threaten the stability of the already weak neighborhoods

CRA exams should punish abusive lending, and the proposed changes will not do this. Rigorous fair lending audits and severe penalties on CRA exams for abusive lending are necessary in order to ensure that the new minority homeowners served by the Administration are protected, but the proposed predatory lending standard will not provide the necessary protections.

* Streamlined and Cursory Exams. The proposed changes will eliminate the investment and service parts of the CRA exam for banks and thrifts with assets between $250 and $500 million. The proposed changes would reduce the rigor of CRA exams for 1,111 banks that account for more than $387 billion in assets.

* Enhanced data disclosure. Reporting the specific census tract location of small businesses receiving loans will improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. Reporting separately purchases from loan originations on CRA exams and separately reporting high cost lending (per the new HMDA data requirement starting with the 2004 data) will also be helpful. But the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. The agencies must not merely report the new data on CRA exams, but must use the new data to provide less weight on CRA exams to high cost loans than prime loans and assign less weight for purchases than loan originations.

* Missed Opportunity to Update Exam Procedures: The agencies also failed to close gaping loopholes in the CRA regulation. Banks can still manipulate their CRA exams by excluding affiliates not serving low- and moderate-income borrowers and excluding affiliates engaged in predatory lending. The game playing with affiliates will end only if the federal agencies require that all affiliates be included on exams. Lastly, the proposed changes do not address the need to update assessment areas to include geographical areas beyond bank branches. Many banks make considerable portions of their loans beyond their branches; this non-branch lending activity will not be scrutinized by CRA exams.

The proposed changes to CRA will directly undercut the Administration's emphasis on minority homeownership and immigrant access to jobs and banking services. CRA makes capitalism work better for all Americans. CRA is too vital to be gutted by harmful regulatory changes and neglect.

Thank you for considering my comments.

Sincerely,

Lisa-Nicolle Grist
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Cc: National Community Reinvestment Coalition
President George W. Bush
Treasury Secretary John W. Snow
Congresswoman Nydia M. Velázquez